

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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TRAVIS HATCHETT,

Plaintiff,

-against-

T&M TRANSPORTATION, LLC, BIRON WILLIAM
HAILEY, and ABDIKADIR ALI LIBAN,

Defendants.
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Docket No.:
09-cv-08810(PKC)(AJP)

**ANSWER TO
CROSS-CLAIM**

Defendant, T&M TRANSPORATION, by his attorneys, KOPFF, NARDELLI & DOPF LLP, as and for his Answer to the Cross-Claim of co-defendant, ABDIKADIR ALI LIBAN, as set forth in said defendant's Answer to plaintiff's Complaint, hereby alleges as follows:

1. Paragraph 63 of the Complaint is DENIED as it contains conclusions of law to which no responsive pleading is required, and therefore, said averments are denied.
2. Paragraph 64 of the Complaint is DENIED as it contains conclusions of law to which no responsive pleading is required, and therefore, said averments are denied.
3. Paragraph 65 of the Complaint is DENIED as it contains conclusions of law to which no responsive pleading is required, and therefore, said averments are denied.
4. Paragraph 84 of the Complaint is DENIED as it contains conclusions of law to which no responsive pleading is required, and therefore, said averments are denied.
5. Paragraph 85 of the Complaint is DENIED as it contains conclusions of law to which no responsive pleading is required, and therefore, said averments are denied.

**DEFENDANT T&M TRANSPORTATION, LLC'S CROSS-CLAIM
AGAINST CO-DEFENDANT, ABDIKADIR ALI LIBAN**

6. Defendant, T&M Transportation, LLC, incorporates by reference the allegations of plaintiff's Complaint, without admitting the truth thereof, and defendant's Answer with Affirmative

Defenses to plaintiff's Complaint filed in State Court action, as well as paragraphs 1 - 5 of the Answer to Cross-Claim, as though the same were set forth at length herein.

7. If it is judicially determined that plaintiff is entitled to recover on the causes of action declared in the Complaint upon any theory, any and all liability on the part of defendant, T&M Transportation, LLC, being specifically denied as more fully set forth in said defendant's Answer with Affirmative Defenses to plaintiff's, then defendant Abdikadir Ali Liban, is solely liable to plaintiff, or jointly and severally liable with defendant, T&M Transportation, LLC, or liable over to defendant, T&M Transportation, LLC, by way of contribution and/or indemnity.

8. Defendant, Abdikadir Ali Liban, was negligent, careless or reckless in the ownership, operation, inspection, management, maintenance, control, and supervision of the motor vehicle, in that defendant, Abdikadir Ali Liban, was negligent in, *inter alia*,

- a. failing to have the motor vehicle he was driving under proper and reasonable control;
- b. operating the motor vehicle in such a matter as to cause it to collide into and against defendant's tractor trailer;
- c. failing to steer in time to avoid the collision;
- d. negligently applying, inspecting, and maintaining the vehicle he was driving;
- e. failing to exercise the proper degree of care with respect to the rights and safety of other motor vehicle operators, owners, and passengers;
- f. failing to operate the motor vehicle he was driving in a safe and proper manner;
- g. failing to yield the right of way to traffic already upon the highway;
- h. failing to keep and maintain a proper lookout for other vehicles on the roadway;
- i. failing to properly signal or warn other motor vehicle operators;
- j. failing to comply with applicable traffic control signs or signals;

- k. negligently driving too fast for conditions;
- l. failing to drive his motor vehicle within the speed limit;
- m. failing to keep his vehicle in the proper lane;
- n. losing control of his vehicle; and
- o. driving while fatigued.

9. The negligence of defendant, Abdikadir Ali Liban, caused any and all damages to the plaintiff.


WHEREFORE, defendant, T&M TRANSPORATION, demands judgment dismissing the CROSS-CLAIM herein, in its entirety, together with the costs and disbursements of this action.

Dated: New York, New York
November 10, 2009

Yours, etc.,

KOPFF, NARDELLI & DOPF LLP

By:



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